

PUBLIC MEETING
February 21, 2006

Chair Anita Varone called the meeting to order at 9:00 a.m.

Commissioner Murray is present. Commissioner Tinsley is absent attending a State Land Board meeting. Others attending all or portion of the meeting include Ron Alles, Jerry Grebenc, Larry Marshall, Lindsay Morgan, Cheryl Green, Marni Bentley, Frank Rives, Greg McNally, Duane Noel, Judy Hart, Wayne Pacheco, Ron Solberg, J.J. Conner, Faron Henderson, Trevor Taylor, Jim Taylor, Kirby Christian, Jerry Hamlin, Leonard Ennis, Dan Dengel, Jim Hill, Jason Mohr, and Maria Penna.

Pledge of Allegiance. Everyone recited the pledge.

Consent Agenda Items. Ron Alles reported on the consent agenda.

- a. Resolution Ordering a Refund of Taxes/Fees/Assessments Paid. \$75.00 to Jason Torick for York Fire Service Fees. (Cheryl Green)
- b. Resolution Ordering a Refund of Taxes/Fees/Assessments Paid. \$75.00 to Tim and Millie Beard for York Fire Service Fees. (Cheryl Green)
- c. Montana Arts Council. Grandstreet Theatre Request for Payment.
- d. Request for One-Year Extension to February 11, 2007 of Preliminary Plat Approval for Fieldstone Estates Major Subdivision. (Applicant, Fieldstone LLC) (Planner, Jerry Grebenc)

Commissioner Varone noted for the record the York Fire Service Fee refund amounts were due to double assessments and should only be assessed one time.

Commissioner Murray moved to pull consent item d for discussion. Commissioner Varone seconded the motion and it carried 2-0.

Commissioner Murray moved to approve consent items a, b, and c and authorize the chair to sign the appropriate documents. Commissioner Varone seconded the motion and it carried 2-0.

Consent item d. Commissioners Murray and Varone took a moment to read the letter received this morning from attorney Kirby Christian which refers to a letter from Richard Thweatt. Mr. Alles stated the letter from Mr. Thweatt asks the County to deny the extension of preliminary plat approval. The letter from Mr. Christian presents some legal arguments why the County should go ahead and approve the extension.

Kirby Christian stated the letter from Mr. Thweatt indicates some legal positions explaining why the application should not be extended or approved for another year.

Commissioner Murray asked Mr. Christian to explain the developer's due diligence to date. Mr. Christian stated the applicant has drilled two wells and possibly a third, a number of pump tests have been done, and a substantial amount of funds have been expended to move the matter forward to the DNRC water division for expert witnesses,

expert reports, testing, aquifer and geology-type studies. No construction or any underground improvements have commenced.

Commissioner Murray asked Mr. Christian how many years this 4-year extension should be allowed to continue. Mr. Christian believes under the court's tolling issue probably one year given the Commission's initial approval from the final determination by the court.

Commissioner Varone supports this agenda item be tabled to February 23 to allow the county attorney's office an opportunity to review this request since the county is involved in litigation on this issue. Mr. Christian concurs with February 23.

Commissioner Murray moved to table this agenda item to Thursday, February 23. Commissioner Varone seconded the motion and it carried 2-0.

Proposed Minor Subdivision, Preliminary Plat to be known as New Horizons Subdivision. (Applicants, Wayne & Doretta Pacheco) (Planner, Lindsay Morgan) (cont. from 2/7/06) The applicants proposed to create 5 lots, each for one single-family dwelling and one to be used for a multi-family residential dwelling. The proposed subdivision is generally located south of and adjacent to John G Mine Road and west of and adjacent to North Montana Avenue.

Lindsay Morgan reported the applicant provided a letter stating their reason for the two variance requests. They have decided on the original proposal and presented some alternatives that concerned them.

Commissioner Varone asked staff to explain the hardship and the future intent the applicant has with the small strip of land next to John G Mine Road. Ms. Morgan stated the strip of land in question is in the northeastern corner of the property. It is located where the irrigation canal lies and also is the easement for John G Mine Road. The assumption is the property owner south of this land does not want to aggregate the property or do a boundary line relocation and add it to their property. The applicant has decided it would be less of an impact by adding the second way in and out. They have come in for a proposed major subdivision in which they would divide lots and the variance for the dead-end road length would no longer be an issue, but they will need a variance for a road to bisect lot 5.

Wayne Pacheco stated he has no use for the strip of land in question. The 80 foot section is not large enough to fence for use as pasture and his neighbors do not want it because they would have to maintain the weed control.

Faron Henderson, DBEC, Inc. stated DBEC looked at different options for removing the variances. In discussions with the owner, they feel the best plan is to proceed with what has been submitted.

Variance 1. Length to Width Ratio for Lot 2. Commissioner Murray moved to approve the variance for the length to width ratio for Lot 2. Commissioner Varone seconded the

motion and it carried 2-0.

Variance 2. To allow Lot 5 to be bisected by a public access road. Commissioner Murray moved to approve the variance for a road to bisect Lot 5. Commissioner Varone seconded the motion and it carried 2-0.

Commissioner Murray moved to approve the proposed subdivision subject to 18 conditions as recommended by staff and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Montana Board of Investments. InterCap Bond Resolution Relating to the Lincoln Rural Improvement District No. 2004-6. Marni Bentley reported this is a request for a partial drawdown on the InterCap loan in the amount of \$388,747.00 for gravel improvements for the Lincoln RID. The loan closing is February 24. Staff recommends approval of the resolution. Commissioner Murray moved to approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Montana Board of Investments. InterCap Bond Resolution Relating to the Lambkin Rural Improvement District No. 1989-1. Marni Bentley reported this is a request for a full drawdown on the InterCap loan in the amount of \$29,351.85. The loan closing is March 3. Staff recommends approval of the resolution. Commissioner Murray moved to approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Montana Board of Investments. InterCap Bond Resolution Relating to the Oro Fino Rural Improvement District No. 1994-5. Marni Bentley reported this is a request for a partial drawdown on the InterCap loan in the amount of \$25,776.21. The chip seal work will be done when weather permits. The loan closing is March 3. Staff recommends approval of the resolution. Commissioner Murray moved to approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Montana Board of Investments. InterCap Bond Resolution Relating to the Maynard Rural Improvement District No. 2005-1. Marni Bentley reported this is a request for a full drawdown on the InterCap loan in the amount of \$8,679.68. The loan closing is March 3. Staff recommends approval of the resolution. Commissioner Murray moved to approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Montana Board of Investments. InterCap Bond Resolution Relating to the Applegate Rural Improvement District No. 1994-6. Marni Bentley reported this is a request for a full drawdown on the InterCap loan in the amount of \$43,005.71. The loan closing is March 3. Staff recommends approval of the resolution. Commissioner Murray moved to approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Montana Board of Investments. InterCap Bond Resolution Relating to the Prickly Pear Rural Improvement District No. 1985-2. Marni Bentley reported this is a request for a full drawdown on the InterCap loan in the amount of \$168,861.46. The loan closing is March 3. Staff recommends approval of the resolution. Commissioner Murray moved to approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Resolution to Create Special Zoning District No. 42. Jerry Grebenc reported this is a housekeeping issue. In November, the Commissioners voted to create the special zoning district for the Lincoln Villa Acres Subdivision in Lincoln. Staff recommends the Commission sign the resolution. Commissioner Murray stated the public hearing was held in Lincoln and was supported by the residents of Lincoln. Commissioner Murray moved to approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Final Plat Approval and the Subdivision Improvements Agreement for the Grassland Major Subdivision. (Applicants Duane and Beth Noel). Frank Rives reported the applicants have met all conditions of approval except for some road improvements and they have entered into a Subdivision Improvements Agreement for these improvements. Staff recommends the commission approve the final plat and the agreement. Commissioner Murray moved to approve the final plat along with the subdivision approval agreements and authorize the chair to sign. Commissioner Varone seconded the motion and it carried 2-0.

Proposed Minor Subdivision, Preliminary Plat to be Known as Overlook Acres. (Applicant, Hamlin Construction & Development Co., Inc.) (Planner, Greg McNally). The applicant proposes to create 3 lots, each for one single-family dwelling. The proposed subdivision is generally located ½ mile north of Prairie Road at the end of Mary Drive.

Jerry Hamlin is present representing Hamlin Construction and indicated his willingness to proceed. He asked that the language in condition 9.b be clarified to read, Improve Mary Drive from the subject property to the southern boundary of Erickson Road. Regarding condition 10, he would like to waive the right to protest future creation of an RID for that area of road that benefits other property owners other than just these 3 lots.

Greg McNally presented the staff report. Mary Drive is a 60-foot access easement so it will be used as the internal access road and can be extended north if further developed. The wells will be subject to review and approval from DEQ and the County-City Health Department. The proposal is located in the North Hills Temporary Ground Water Control Study Area and the applicant has provided a letter from DEQ indicating there is substantial and credible evidence there is adequate water for the subdivision. The applicant would be required to build the internal access road with a gravel standard from Mary Drive to Erickson Road and Erickson Road from Mary Drive to Montana Avenue, or Mary Drive to Prairie Road. Both options would have an asphalt mat at the intersections with either Prairie Road or Montana. The West Helena Valley Fire District

will require \$1,000 per lot fee for fire protection services. The applicant has conducted a 24-hour pump test and there is substantial and credible evidence of a water supply. Staff recommends approval of the proposal subject to 18 conditions as outlined in the staff report. In response to Mr. Hamlin's question regarding condition 9.b, staff recommends that the language just beyond be removed from the sentence to satisfy the road construction. If the is interested in pursuing an RID, he would need to initiate the process and gain support from those neighbors who would benefit from the creation of the RID.

Mr. Grebenc stated Mr. Hamlin's only option to not do the road construction is to request a variance from the County Road Standards.

Jerry Hamlin, 1625 University Street, asked for the definition of providing standard physical access. Jerry Grebenc stated the county operates under the regulations that standard physical address is what complies with County Road Standards. The physical access to the property must comply with Appendix K, or a person may request a variance. Although he has not submitted a variance, his concern is for the total lot cost after making the required improvements. He agreed to table this matter to consider submitting a variance and extending the review period to March 17.

Commissioner Murray moved, at the request of the applicant, to extend the deadline from March 7 to March 17, 2006. Commissioner Varone seconded the motion and it carried 2-0.

Commissioner Murray moved, for the convenience of the applicant, that the hearing be held on Tuesday, March 14 and a decision be rendered on the 16th. Commissioner Varone seconded the motion and it carried 2-0.

Public comments on matters not mentioned above. None

There was no other business, the meeting adjourned 9:55 a.m.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS

Anita L. Varone, Chair

Michael A. Murray, Vice-Chair

Ed Tinsley, Member

ATTEST:

Paulette DeHart, Clerk of the Board